

ATTACHMENT A
RESOLUTION R6T- 2007-(PROPOSED)

**WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES RELATED TO
TIMBER HARVEST AND VEGETATION MANAGEMENT ACTIVITIES**

Water Code Section 13269 authorizes the Regional Water Quality Control Board, Lahontan Region (Water Board) to waive the necessity to obtain Waste Discharge Requirements and to submit Reports of Waste Discharge for specific types of discharges. This action is contingent upon the waiver being conditional, consistent with applicable water quality control plans, and in the public interest. Waivers must also contain a monitoring element and be updated every five years.

Subject to the conditions set forth below, the Water Board waives the requirement to submit Reports of Waste Discharge and the requirement to obtain Waste Discharge Requirements for the categories of waste discharges specified in Part II and Part III below related to timber harvest and vegetation management activities, except for those activities for which Waste Discharge Requirements have been adopted.

I. GENERAL WAIVER CONDITIONS

A. Definitions

1. "Timber Harvest Activities" means all activities relating to timber harvesting, including the cutting or removal or both of trees and vegetation, together with all the work incidental thereto, including, but not limited to, construction, reconstruction and maintenance of roads, fuel breaks, firebreaks, stream crossings, landings, skid trails, or beds for the falling of trees; burned area rehabilitation, fuels hazard reduction, vegetation management (including on brushland); site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities; and herbicide application; but excluding preparatory tree marking, surveying or road flagging.
2. "Discharger" means the land owner and anyone working on behalf of the land owner in the conduct of timber harvest activities for non-federal lands, and the US Forest Service or the Bureau of Land Management, and private timber operators operating on federal lands.
3. "Plan" means any Timber Harvest Plan (THP), Non-industrial Timber Management Plan (NTMP), or other discretionary permit issued by CDF to harvest timber, including all amendments thereto that propose a change in timber harvest activities that may increase the discharge or otherwise pose the potential for increased impacts to water quality. (For example, amendments that propose to add, expand, or extend winter operations shall be considered a "Plan" for purposes of this Waiver. Amendments that do not propose any material change in how or where timber harvest activities will be conducted, such as a change in timber operator, a time extension from CDF, etc., shall not be considered a "Plan" for purposes of this Waiver.)

4. "Project Submittal" means materials that are required to be submitted to the Water Board, as specified in the qualifying waiver category, for fuels hazard reduction and forest enhancement projects that are not on US Forest Service lands and when the project does not require permits from CDF. The "Project Submittal" must contain a description of how the project meets the eligibility requirements and conditions of this waiver. The information required in the Certification Notice/Application for the waiver (Attachment 1) may fulfill part of this requirement, as applicable. For Lead Agencies that have previously complied with CEQA requirements, approved CEQA documents must be submitted.
5. "Requirement of an applicable water quality control plan" means a water quality objective, prohibition, TMDL implementation plan, or other requirement contained in a water quality control plan adopted by the Water Board and approved by the State Water Board, and plans or policies adopted by the State Water Board that apply to the timber harvest activities.
6. "Monitoring" refers to all types of monitoring undertaken in connection with determining water quality conditions and factors that may affect water quality conditions, including but not limited to, instream water quality monitoring undertaken in connection with timber harvest activities, monitoring to identify short and long-term trends in water quality, active inspections of timber harvest activities, implementation, forensic and effectiveness monitoring, and project completion inspections.
7. All other terms shall have the same definitions as prescribed by the California Forest Practice Rules (California Code of Regulations, Title 14, Section 895.1 et seq.) and the Porter-Cologne Water Quality Control Act (Water Code Section 13000 et seq.), unless specified otherwise.

B. General Conditions for Waiver Categories 1 through 5

1. The discharger must comply with all requirements of applicable water quality control plans and as these may be modified from time to time pursuant to amendments to water quality control plans adopted by the Regional Water Board and approved by the State Water Board, and water quality control plans and policies adopted by the State Water Board.
2. The discharger shall conduct timber harvest activities in accordance with the approved Plan or CDF-accepted exemption or emergency notice for non-federal timberlands; or Project Submittal for non-commercial activities; or in accordance with the final environmental document prepared pursuant to the National Environmental Policy Act (NEPA) and decision document for timber harvest activities on federal lands.

3. The discharger shall prepare and conduct timber harvest activities in accordance with the final environmental document as required and appropriate for the proposed timber harvest activities pursuant to the California Environmental Quality Act (CEQA).
4. The discharger shall not create a pollution, contamination, or nuisance, as defined by Water Code Section 13050.
5. This waiver does not authorize the discharge of waste not specifically regulated by the waiver. Such discharges are specifically prohibited unless regulated by another waiver of waste discharge requirements issued by the Water Board or State Water Board. Wastes specifically regulated under this waiver that enter or threaten to enter waters of the State, including from stormwater runoff, are: earthen materials including soil, silt, sand, clay, rock; organic materials such as slash, sawdust, or bark; and silvicultural herbicides. Examples of wastes not specifically regulated under this waiver include: petroleum products, hazardous materials, or human wastes.
6. Monitoring is required as specified in the "Implementation, Forensic and Effectiveness Monitoring and Reporting Program (MRP) Order No. R6T-2007-(PROP) for Individual Dischargers under Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities", (Attachment 2). The MRP may be updated at any time by the Executive Officer of the Water Board. The Executive Officer may impose individual monitoring requirements where needed to ensure water quality protection.
7. The discharger shall allow Water Board staff:
 - (a) to enter at any time, with or without advance notice, the discharger's property where timber harvest activities covered under this Waiver are being/have been conducted, including any and all outdoor areas in the vicinity of and downstream of timber harvest activities, for the purposes of observing, inspecting, photographing, digitally recording or video taping, measuring, and/or collecting samples or other monitoring information to document compliance or non-compliance with the eligibility criteria and/or conditions of this Waiver; and
 - (b) access and permission to copy at reasonable times any self-monitoring records that must be kept as established by the MRP or directed by the Executive Officer, and to inspect at reasonable times any equipment used to fulfill monitoring requirements established by the MRP or the Executive Officer.

Immediately upon entering the property, Water Board staff will attempt to contact the site owner, persons performing the timber harvest activities, or other on-site representative(s) of the discharger in order to obtain permission for each inspection, and to discuss any safety considerations. In seeking coverage under this Waiver, the discharger provides advance consent for announced or unannounced access by Water Board staff to outdoor areas as specified above. If any such consent is unreasonably withheld, the Executive Officer shall terminate the applicability of the Waiver pursuant to Section (III)(B) of this Waiver.

8. Any person seeking coverage under this Waiver shall file the applicable eligibility document(s) as described herein with the Water Board. Unless otherwise specified, in addition to those items specified under Waiver Categories 1b., 1.c, and 2-5, dischargers under these categories must submit a USGS 7.5 minute topographic map or equivalent map indicating the specific location of the project, name and proximity of the nearest water bodies (including all streams, wetlands, meadows and Lake Tahoe Hydrologic Unit stream environment zones (SEZs), project acreage, proposed road usage or construction, and Cal Water hydrologic unit.
9. Unless other timeframes are specified by Water Board staff, timber harvest activities that comply with the eligibility criteria, conditions, and procedures for a waiver may commence 30 days following receipt of applicable documents by the Water Board. Applicable documents are described in Part II – Category Specific Conditions. Projects eligible under Category 1 and projects other than NTMPs that go through the CDF Interdisciplinary Review Team Process are exempt from submitting materials 30 days in advance of project commencement. Non-commercial fuels hazard reduction projects will receive top priority for review to allow operations to commence sooner than 30 days. If the project requires expedited review, project proponents should contact Water Board staff to arrange assistance and prompt review.

II. CATEGORY-SPECIFIC CONDITIONS

A. CATEGORY 1: MINOR TIMBER HARVEST, OR NON-USFS FUELS HAZARD REDUCTION ACTIVITIES (including hand thinning or mechanized projects outside of watercourse areas or SEZs not resulting in significant erosion).

1. Eligibility Criteria:

Projects must meet the criteria under a, b, or c below.

- a. Timber harvest activities within 150 feet of existing structures (i.e., “FireSafe” treatments) that are conducted pursuant to either a Notice of Exemption accepted by CDF under California Code of Regulations, Title 14, Section 1038, subdivision (c) or pursuant to Public Resources Code (PRC) Section 4291 defensible space requirements. **No notice to the Water Board is required for timber harvest activities that meet this**

description. These projects must adhere to Basin Plan prohibitions, including but not limited to, operational restrictions in stream environment zones (SEZs) in the Lake Tahoe Basin and 100-year floodplains in the Truckee Hydrologic Unit,

OR

- b. Timber harvest activities, other than “FireSafe” treatments as specified in II.A.1.a., that comply with the following criteria as clearly indicated in the Plan or Notice of Exemption or Notice of Emergency accepted by CDF, or as certified in writing in the Project Submittal for this waiver:
- (1) No timber harvest activities on slopes greater than 60%.
 - (2) No tractor or heavy equipment operations on slopes greater than 50%.
 - (3) No construction of new tractor roads on slopes greater than 40%.
 - (4) No timber harvest activities within any Special Treatment Area “type a” or “type c,” as defined in California Code of Regulations, Title 14, Section 895.1, except hauling over existing roads that complies with the rules associated with that Special Treatment Area.
 - (5) No tractor or heavy equipment operations on known slides or unstable areas.
 - (6) No new construction or reconstruction, as defined in California Code of Regulations, Title 14, Section 895.1, of logging roads, landings, or watercourse crossings.
 - (7) No timber harvest activities within the standard width of a Watercourse and Lake Protection Zone (WLPZ), as defined in California Code of Regulations, Title 14, Section 916.4, 936.4, 956.4(b), or within 25 feet of any Class III or Class IV watercourse where sideslope steepness is less than 30%, or within 50 feet of any Class III or Class IV watercourse where sideslope steepness is 30% or greater, except for use and maintenance of existing permanent roads, use of existing bridges and existing culverts as skid trail crossings, and maintenance of associated drainage facilities or structures.
 - (8) No timber harvest activities that may disturb, threaten, or damage known or potential aquatic or wetland habitat for rare, threatened or endangered plants or animals.
 - (9) No timber harvest activities within the buffer zone of a sensitive species, as defined in California Code of Regulations, Title 14, Section 895.1.
 - (10) No timber harvest activities on soils with high or extreme erosion hazard rating.
 - (11) No heavy equipment operation in meadows or wet areas (including all stream environment zones (SEZs) within the Lake Tahoe Basin and 100-year flood plain within the Truckee River Hydrologic Units) except use and maintenance of existing roads and associated drainage facilities or structures. Dischargers implementing projects in

SEZs in the Lake Tahoe Basin or within 100-year floodplains within the Truckee River Hydrologic Unit must comply with applicable Basin Plan restrictions (Basin Plan, Chapters 4 and 5).

- (12) No timber harvest activities during the winter period from October 15 through May 1, or under saturated soil conditions as defined in California Code of Regulations, Title 14, Section 895.1, except for hand-thinning operations over-snow or hard frozen ground that does not allow for soil displacement or compaction.
- (13) No timber harvest activities involving mechanical site preparation, as defined in California Code of Regulations, Title 14, Section 895.1.
- (14) No timber harvest activities involving prescribed burning within stream environment zones or 100 year flood plains within the Lake Tahoe Basin.
- (15) No timber harvest activities that do not meet minimum stocking requirements immediately upon completion of harvest, as defined in California Code of Regulations, Title 14, Sections 912.7, 932.7, 952.7.
- (16) No timber harvest activities that include, are accompanied by, or followed by post-harvest applications of herbicides,

OR

- c. Minor fuels hazard reduction and forest enhancement projects complying with the criteria listed in II.A.1.b. (1) – (16) above, which are not required to obtain a CDF permit, and are not on US Forest Service Lands. These project proponents must submit a Certification Notice/Application (Attachment 1) and Map.

NOTE: Hand thinning projects in categories 1.b and 1.c. above are exempt from Condition II.A.1.b. (1) and (7) above, if the following conditions are met in addition to II.A.1.b. (2)-(6) and (8)-(16) above:

- (1) No work may proceed under saturated soil conditions.
- (2) All live trees that provide stream bank stability must be retained and canopy retention standards shall match those specified in the California Forest Practice Rules (California Code of Regulations, Title 14, Section 916.4, 936.4, 956.4).
- (3) Necessary measures to avoid soil compaction, erosion, disturbance to non-target WLPZ/SEZ vegetation, and potential hydraulic flow paths created by hand crew activities shall be described in the Certification Notice/Application.
- (4) All tree marking within WLPZs or SEZs within the Lake Tahoe Basin must be done by an RPF, or on federal land, by a Federal Forestry Professional.
- (5) No live trees over 20 inches diameter at breast height (dbh) may be harvested within WLPZs, or SEZs within the Lake Tahoe Basin.
- (6) A final certification must be signed and submitted after the project is completed stating whether:

- Timber harvest activities were conducted in conformance with applicable approved plans, the Certification Notice/Application, and with all applicable provisions of this waiver.
- Discharges resulting from the project were in compliance or are expected to be in compliance with all requirements of applicable water quality control plans.

2. Conditions:

- a. The discharger shall comply with the General Conditions described in I.B. above. No Project Submittal is required for Category 1.a.
- b. Prior to initiating the project, the discharger shall submit to the Water Board a copy of: (1) a Certification Notice/Application (Attachment 1), signed by the discharger, certifying that the timber harvest activities will comply with the eligibility criteria and conditions for Waiver Category 1; (2) an approved Plan, or an exemption or emergency notice accepted by CDF, that includes all of the above eligibility criteria, or (3) for non-commercial fuels hazard reduction or forest enhancement projects not required to obtain a CDF permit, a written Project Submittal describing how the project meets the above eligibility criteria. **This notification is not required for those projects that meet the eligibility criteria contained at II.A.1.a. above.**

B. CATEGORY 2: EXEMPT OR EMERGENCY TIMBER HARVEST ACTIVITIES ON NONFEDERAL LANDS, OR NON-USFS FUELS HAZARD REDUCTION AND FOREST ENHANCEMENT PROJECTS THAT DO NOT QUALIFY FOR THE WAIVER UNDER CATEGORY 1.

1. **Eligibility Criteria:** Timber harvest activities with either: 1) a CDF accepted Notice of Exemption or Emergency, or 2) non-US Forest Service, non-commercial fuels hazard reduction or forest enhancement activities that comply with the following criteria:
 - a. A Registered Professional Forester (RPF) or federal forestry professional on federal land, after conducting a comprehensive field review of proposed timber activities, shall specifically identify the presence or absence of any of the following features or conditions in the area of, or potentially affected by, the proposed timber harvest activities:
 - aquatic or wetland habitat for salmonids or rare, threatened or endangered species,
 - domestic or municipal water use within one mile downstream of the harvest area,
 - soils with high or extreme erosion hazard rating, or slopes greater than 30% within the Lake Tahoe Hydrologic Unit,
 - known slides and unstable areas, including unstable or erodible watercourse banks,

- changeable channels, overflow channels, inadequate flow capacity, flood prone areas, riparian areas, SEZs in the Lake Tahoe Basin or 100-year floodplains in the Truckee River Hydrologic Unit, elevated stream temperatures,
 - all watercourse crossings proposed for use on any Class I-IV watercourse during timber harvest activities (including existing crossings and/or those to be constructed or reconstructed), and
 - all landings and skid trails proposed for use during timber harvest activities (including existing landings and skid trails and those to be constructed or reconstructed) for which any portion of the landing or skid trail lies within the standard width of any Watercourse and Lake Protection Zone for a Class I or Class II watercourse as defined by California Code of Regulations, Title 14, Section 916.5, 936.5, 956.5 (Table 1), or within 25 feet of any Class III or Class IV watercourse where sideslope steepness is less than 30%, or within 50 feet of any Class III or Class IV watercourse where sideslope steepness is 30% or greater.
- b. For those projects where aquatic or wetland habitat for rare, threatened or endangered species is identified, additional field review shall be conducted by a scientist, with a bachelor's or advanced degree in relevant biological sciences and relevant experience in aquatic systems, to determine if the proposed project could adversely affect such species or habitat. The scientist shall recommend project modifications and/or mitigation measures as needed to avoid any adverse impact(s) to such species or habitat. Any and all project modifications and mitigation measures recommended by the biological scientist to avoid any adverse impact(s) to rare, threatened or endangered species, or habitat must be submitted in writing to the Water Board with the Plan or Project Submittal.
- c. The discharger must identify either within or supplemental to the Plan, or within the Project Submittal, any additional management practices and/or water quality mitigation or protective measures that are necessary to address, at a minimum, the features and conditions described in Section II.B.1.a. above (should any exist), winter period operations between October 15 and May 1, and cumulative watershed effects, to assure compliance with the requirements of applicable water quality control plans.
- d. The management practices and water quality measures shall include, at minimum, the following requirements where applicable:
- (1) an Equipment Limitation Zone (ELZ) for any and all Class III and Class IV watercourses of at minimum 25 feet where sideslope steepness is less than 30%, and at minimum 50 feet where sideslope steepness is 30% or greater;
 - (2) all crossing facilities on watercourses that support fish will be installed and maintained so as to allow for unrestricted passage of fish and water during all life stages and flow conditions;

- (3) all culverts at watercourse crossings in which water is flowing at the time of installation shall be installed with necessary protective structures in place prior to fill placement;
- (4) all permanent watercourse crossings and associated fills and approaches shall be installed and maintained to prevent diversion of stream overflow down the road and to minimize erosion of the fill and road prism should the drainage structure become obstructed;
- (5) all riparian vegetation, other than commercial species, that is found along watercourses and lakes or that is found within or bordering meadows and wet areas will be retained and protected during timber harvest activities; and
- (6) where seasonal water temperatures are too high to fully support beneficial uses of water in Class I or II waters within or downstream from the logging area, no trees that provide shade to the waters during the critical summer period shall be cut.

2. Conditions:

- a. The discharger shall submit to the Water Board: (1) a Certification Notice/Application (Attachment 1), signed by the discharger, certifying that the timber harvest activities will comply with all conditions applicable to Waiver Category 2, accompanied by either (2) a copy of a Notice of Exemption or Notice of Emergency accepted by CDF, or (3) a "Project Submittal", that includes the information required by II.B.1.(a-d), above;
- b. The discharger shall comply with the General Conditions described in I.B. above.
- c. Dischargers implementing projects that include operations within Stream Environment Zones in the Lake Tahoe Basin, or within 100-year floodplains in the Truckee River Hydrologic Unit must comply with applicable Basin Plan restrictions (Basin Plan Chapters 4 and 5).
- d. The discharger shall notify the Water Board in writing at least 90 days prior to the proposed application of herbicides. The notification shall include the type of herbicide, method and area of application, projected date of application, and measures that will be employed to assure compliance with all applicable water quality control plans. Subsequent changes to the proposal must be submitted in writing forthwith, and in no event less than 14 days before the application, unless Water Board staff agrees in writing to a lesser notice. Applications of herbicides are not allowed as part of non-commercial projects, unless the effects of such application have been previously analyzed in the project CEQA document.
- e. The discharger shall comply with a monitoring program as specified in the MRP (Attachment 2) or as directed by the Executive Officer. As part of the MRP, the discharger must report and document violations, and take corrective actions to maintain compliance with conditions of this waiver.

C. CATEGORY 3: TIMBER HARVEST ACTIVITIES ON NON-FEDERAL LANDS THAT RECEIVE DISCRETIONARY APPROVAL FROM CDF AND FOR WHICH WATER BOARD STAFF HAS FULLY PARTICIPATED IN THE INTERDISCIPLINARY REVIEW TEAM PROCESS (including timber harvesting plans, non-industrial timber management plans, other plans, and amendments).

1. Eligibility Criteria:

- a. Water Board staff has participated in CDF's interdisciplinary review team process, including an on-site pre-harvest inspection (PHI), except that attendance at a PHI by Water Board staff is not required for an amendment to a previously waived project to be eligible for this Waiver Category if, after review of the proposed amendment, Water Board staff notifies CDF in writing that Water Board participation at a PHI is not necessary for that amendment to be eligible for coverage under Waiver Category 3.
- b. Additional management practices and/or water quality mitigation or protective measures (beyond the requirements of the current Forest Practice Rules, if necessary), are identified during the Review Team process to assure compliance with the requirements of applicable water quality control plans.
- c. Such identified management practices, and/or water quality mitigation or protective measures are submitted in writing to CDF by Water Board staff, or Water Board staff accepts, in writing, those management practices and/or water quality mitigation or protective measures proposed by either CDF or the RPF.
- d. All identified additional management practices, and/or water quality mitigation or protective measures are incorporated into the Plan as submitted or accepted by Water Board staff, or as subsequently agreed to in writing by the Water Board's Executive Officer following a dispute resolution process.

2. Conditions:

- a. The Water Board must receive: (1) a copy of a Plan approved by CDF that incorporates all identified additional management practices, and/or water quality mitigation or protective measures resulting from Water Board staff participation in CDF's interdisciplinary review team process, and (2) a Certification Notice/Application (Attachment 1), signed by the discharger, listing the Plan number and certifying that the activities are appropriately covered under waiver Category 3.

- b. For an approved NTMP, the discharger shall submit each Notice of Timber Operations to the Water Board no more than six months and at least 30 days prior to commencement of timber harvest activities.
- c. The discharger shall comply with the General Conditions described in I.B., above.
- d. The discharger shall notify the Water Board in writing at least 90 days prior to the proposed application of herbicides. The notification shall include the type of herbicide, method and area of application, projected date of application, and measures that will be employed to assure compliance with applicable water quality control plans. Subsequent changes to the proposal must be submitted in writing forthwith, and in no event less than 14 days before the application, unless Water Board staff agrees in writing to a lesser notice.
- e. The discharger shall comply with a monitoring program as specified in the MRP (Attachment 2) or as directed by the Executive Officer. As part of the MRP, the discharger must report and document violations, and take corrective actions to maintain compliance with conditions of this waiver.

D. CATEGORY 4:

TIMBER HARVEST ACTIVITIES ON NON-FEDERAL LANDS THAT RECEIVE DISCRETIONARY APPROVAL FROM CDF FOR WHICH WATER BOARD STAFF HAS NOT FULLY PARTICIPATED IN THE INTERDISCIPLINARY REVIEW TEAM PROCESS AND WHICH ARE NOT ELIGIBLE FOR A WAIVER UNDER CATEGORY 1

OR

NON-COMMERCIAL FUELS HAZARD REDUCTION AND FOREST ENHANCEMENT PROJECTS CONDUCTED BY CALIFORNIA ENTITIES THAT HAVE MET ALL REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND WHICH ARE NOT ELIGIBLE FOR A WAIVER UNDER CATEGORY 1 OR 2.

1. Eligibility Criteria:

- a. Documents must be either a CDF functionally equivalent Timber Harvest Plan, or Non-industrial Timber Management Plan, or a CEQA Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report.
- b. The RPF, after conducting a comprehensive field review of proposed timber harvest activities, has clearly identified in the Plan submitted to CDF or the Project Submittal for non-commercial projects, the presence or absence of the following features or conditions in, or affected by, the proposed timber harvest activities:

- aquatic or wetland habitat for salmonids or rare, threatened or endangered species,
 - domestic or municipal water use within one mile downstream of the harvest area,
 - soils with high or extreme erosion hazard rating,
 - known slides and unstable areas, including unstable or erodible watercourse banks,
 - changeable channels, overflow channels, inadequate flow capacity, flood prone areas, riparian areas, SEZs in the Lake Tahoe Basin or 100-year floodplains in the Truckee River Hydrologic Unit, elevated stream temperatures,
 - all watercourse crossings proposed for use on any Class I-IV watercourse during timber harvest activities (including existing crossings and/or those to be constructed or reconstructed), and all landings and skid trails proposed for use during timber harvest activities (including existing landings and skid trails and those to be constructed or reconstructed) for which any portion of the landing or skid trail lies within the standard width of any Watercourse and Lake Protection Zone for a Class I or Class II watercourse as defined by 14 CCR 916.5, 936.5, 956.5 (Table 1), or within 25 feet of any Class III or Class IV watercourse where sideslope steepness is less than 30%, or within 50 feet of any Class III or Class IV watercourse where sideslope steepness is 30% or greater.
- c. For those Plans or Project Submittals where aquatic or wetland habitat for rare, threatened or endangered species is identified, additional field review shall be conducted by a scientist, with a bachelor's or advanced degree in relevant biological sciences and relevant experience in aquatic systems, to determine if the timber harvest activity could adversely affect such species or habitat. The scientist shall recommend project modifications and/or mitigation measures as needed to avoid any adverse impact(s) to such species or habitat. Recommendations shall be submitted in writing to the Water Board with the Plan or Project Submittal.
- d. For those Plans or Project Submittals that propose timber harvest activities on soils with extreme erosion hazard rating, known landslides or unstable areas, or in sensitive near-stream conditions, or proposes any watercourse crossing that involves the placement of more than 500 cubic yards or 25 vertical feet of fill material, additional field review must be conducted or directed by a registered civil engineer or registered engineering geologist, as his/her California license for practicing engineering and geology permits, to: (1) determine if the timber harvest activity could cause or exacerbate the potential for soil erosion or movement, and (2) recommend project modifications and/or mitigation measures as needed to ensure compliance with applicable water quality control plans.

e. The approved Plan or Project Submittal:

- (1) Incorporates, as addenda, signed technical reports from qualified professionals when required to be prepared under II.D.1.b. and/or II.D.1.c. and any and all project modifications and mitigation measures recommended by the qualified biological scientist to avoid adverse impacts to rare, threatened or endangered species, and any and all project modifications recommended by the registered engineer or engineering geologist to ensure compliance with applicable water quality control plans.
- (2) Incorporates any additional management practices and/or water quality mitigation or protective measures (beyond the requirements of the current Forest Practice Rules) to address, at a minimum, the conditions described in II.D.1.a. and II.D.1.b. and/or II.D.1.c. above, winter period operations between October 15 and May 1, and cumulative watershed effects to assure compliance with the requirements of all applicable water quality control plans.
- (3) Incorporates the management practices and water quality mitigation and protective measures specified in the Plan pursuant to subsection (d)(2) above which include, at minimum, the following requirements where applicable:
 - (a) Any and all Class III and Class IV watercourses shall include an Equipment Limitation Zone (ELZ) of at minimum 25 feet where sideslope steepness is less than 30%, and at minimum 50 feet where sideslope steepness is 30% or greater;
 - (b) Any and all crossing facilities on watercourses that support fish shall be installed and maintained so as to allow for unrestricted passage of fish and water during all life stages and flow conditions.
 - (c) Any and all culverts at watercourse crossings in which water is flowing at the time of installation shall be installed with their necessary protective structures concurrently with fill placement.
 - (d) Any and all permanent watercourse crossings and associated fills and approaches shall be installed and maintained to prevent diversion of stream overflow down the road and to minimize erosion of the fill and road prism should the drainage structure become obstructed.
 - (e) Any and all riparian vegetation, other than commercial species, that is found along watercourses and lakes or that is found within or bordering meadows and wet areas shall be retained and protected during timber harvest activities.
 - (f) No trees that provide shade to the waters during the critical summer period shall be cut wherever seasonal water temperatures are too high to fully support beneficial uses of water in Class I or II waters within or downstream from the logging area.

2. Conditions:

- a. The Water Board must receive: (1) a copy of an approved Plan or Project Submittal for non-commercial projects, that meets the eligibility criteria in II.D.1.(a-d); and (2) a Certification Notice/Application (Attachment 1) signed by the discharger stating that the approved Plan or Project Submittal accurately represents site conditions, and that implementation of the approved Plan/Project Submittal will assure compliance with Waiver Category 4.
- b. For an approved Non-industrial Timber Management Plan, each Notice of Timber Operations shall be submitted to the Water Board not less than 30 days prior to commencement of timber harvest activities.
- c. The discharger shall comply with the General Conditions described in I.B., above.
- d. The discharger shall notify the Water Board in writing at least 90 days prior to the proposed application of herbicides. The notification shall include the type of herbicide, method and area of application, projected date of application, and measures that will be employed to assure compliance with applicable water quality control plans. Subsequent changes to the proposal must be submitted in writing forthwith, and in no event less than 14 days before the application, unless Water Board staff agrees in writing to a lesser notice. Applications of herbicides are not allowed as part of non-commercial projects, unless the effects of such application have been previously analyzed in the project CEQA document.
- e. The discharger shall comply with a monitoring program as specified in the (Attachment 2), or as directed by the Executive Officer. As part of the MRP, the discharger must report and document violations, and take corrective actions to maintain compliance with conditions of this waiver.

**E. CATEGORY 5: TIMBER HARVEST ACTIVITIES ON FEDERAL LANDS
MANAGED BY THE U.S. FOREST SERVICE**

1. Eligibility Criteria:

- a. The discharger has conducted a multi-disciplinary review of the timber harvest proposal, including review by watershed specialists, and has specified best management practices, and additional control measures as needed, in order to assure compliance with applicable water quality control plans.
- b. The discharger has conducted a cumulative watershed effects (CWE) analysis and included specific measures needed to reduce the potential for CWEs in order to assure compliance with applicable water quality control plans.

2. Conditions:

- a. For all projects to be covered under this Waiver Category, the discharger shall submit to the Water Board, during project scoping, a description of the project. The discharger shall also submit to the Water Board copies of all draft and final environmental and decision documents prepared pursuant to NEPA, and any other decision documents that contain information documenting compliance with the eligibility criteria at II.E.1. above, unless Water Board staff notifies the discharger in writing that such planning documents are not needed for a specific project. When Water Board staff, based on its review of the project description, elects in writing not to receive environmental and/or decision documents for a specific project, the discharger shall provide a Certification Notice/Application (Attachment 1) signed by the Forest Supervisor or a duly authorized representative, stating the project name and location, and briefly documenting how the discharger complied with the eligibility criteria at II.E.1.(a-b), and certifying that the discharger intends to comply with all conditions applicable to Waiver Category 5.
- b. The discharge must submit a waiver application to the Water Board not sooner than twelve months, but at least 30 days prior to project implementation.
- c. The discharger shall submit and comply with a monitoring program as specified in the MRP (Attachment 2), or as directed by the Executive Officer. As part of the MRP, the discharger must report and document violations, and take corrective actions to maintain compliance with conditions of this waiver. The USFS Best Management Practices Evaluation Program (BMPEP) satisfies portions of the MRP. USFS will collaborate with Water Board staff to develop additional project-specific monitoring requirements. The Executive Officer may impose additional monitoring requirements when: (1) the discharger's cumulative watershed effects analysis indicates that the project may cause any watershed or sub-watershed to exceed a threshold of concern as determined by various models (i.e., Equivalent Roaded Acres (ERA), Surface Erosion (USLE), Mass Wasting (GEO), etc.); or (2) the cumulative watershed effects analysis indicates that the project may increase risk values, as determined by various models (Equivalent Roaded Acres (ERA), Surface Erosion (USLE), Mass Wasting (GEO), etc.), in any watershed or sub-watershed that already exceeds a threshold of concern prior to project implementation; or (3) the project is located within a watershed where surface waters are identified as Impaired under Clean Water Act Section 303 (d). The Executive Officer retains the discretion to modify this requirement, or to impose monitoring requirements in other situations, as appropriate.

- d. The discharger shall comply with the General Conditions described in I.B. above.

F. CATEGORY 6: POST FIRE EMERGENCY REHABILITATION (FEDERAL AND NONFEDERAL PROJECTS)

1. Eligibility Criteria:

Emergency activities implemented to minimize threats to life or property, or to stabilize and prevent unacceptable degradation to natural and cultural resources resulting from the effects of a wildfire, and suppression of a wildfire. Non-emergency activities, initiated more than 60 days of a wildfire being controlled, are not eligible for Category 6.

2. Conditions:

- a. The discharger shall contact Water Board staff (by phone, fax, email, or mail) within 7 days of initiating emergency rehabilitation activities and provide location and a brief description of activities being conducted.
- b. If an Emergency Fire Suppression Report and/or a Bare Area Emergency Rehabilitation Report or equivalent fire rehabilitation report is prepared following a fire, it must be submitted to the Water Board within one week of report completion.
- c. Activities conducted under Waiver Category 6 are exempt from a monitoring and reporting program unless the Executive Officer imposes individual monitoring requirements based upon potential water quality impacts related to the emergency response activities conducted.

III. TERMINATION OF WAIVERS

- A. The Executive Officer (or delegate) shall terminate the applicability of a waiver to specific timber harvest activities if the Executive Officer (or delegate) makes any of the following determinations:
 1. The proposed timber harvest activities do not comply with the eligibility criteria for the waiver;
 2. The timber harvest activities are not in compliance with the applicable conditions of the waiver;
 3. The proposed timber harvest activities are reasonably likely to result in violation of any requirement of an applicable water quality control plan or policy. This could include, but is not limited to, receipt of a Project Submittal or Plan that does not contain sufficient information or adequate mitigation measures to ascertain whether water quality protection is ensured. In making this determination, the Executive Officer shall consider the recommendations of staff that participated in the review of the proposed timber harvest activities, if any;

4. A timber harvest activity has varied in whole or in any part from the approved Plan (for discretionary approvals), notice (for non-discretionary approvals), or Project Submittal, unless these changes result in better protection of water quality;
 5. Where cumulative impacts, special hydrographic characteristics, or other circumstances threaten to create significant water quality impacts that are not otherwise addressed by the waiver conditions.
- B. Upon receipt of notice of termination of applicability of the waiver, the discharger shall immediately cease all timber harvest activities that may result in discharges to waters of the State, other than activities necessary to control erosion. Upon notice of termination, the discharger must file a report of waste discharge and applicable filing fee. Timber harvest activities that may result in discharges that could affect the quality of waters of the State may commence only upon enrollment by the Executive Officer under general waste discharge requirements, the adoption by the Water Board of an individual waiver of waste discharge requirements or individual waste discharge requirements, or in accordance with Water Code Section 13264, subdivision (a). The Executive Officer or Water Board staff may allow activities to proceed under this waiver if sufficient information has been submitted or corrective actions taken to ensure water quality protection and compliance with this waiver.
- C. A discharger may submit a written request to the Water Board for termination of waiver coverage. For Categories 1-5, a Final Certification must be included (as specified in the MRP, Attachment 2), stating whether:
1. Timber harvest activities were conducted in conformance with the approved plan or accepted notice (for private lands) and with all applicable provisions of the waiver.
 2. Discharges resulting from the timber harvesting activities and pesticide applications were in compliance or expected to be in compliance with all requirements of applicable water quality control plans.

A Notice of Revocation will be sent to the discharger when the request is approved.

Attachments:

1. Example Certification/Application Form
2. Monitoring and Reporting Program (MRP)
 - a. Example MRP Forms